



EPA Region 10 RTOC

Regional Tribal Operations Committee

Curyung Tribal Council

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November 6, 2015

Paula Wilson
Idaho Department of Environmental Quality State Office
1410 N. Hilton
Boise, Idaho 83706

Sent via email: paula.wilson@deq.idaho.gov

RE: Proposed Water Quality Standards Changes, Docket No. 58-0102-1201

Dear Ms. Wilson:

This letter is sent on behalf of the Tribal Caucus members of EPA Region 10's Tribal Operations Committee (RTOC). This letter is not sent on behalf of EPA Region 10 or any employees of EPA, but solely tribal government representatives of the RTOC. These comments are submitted on the Proposed Water Quality Standards Changes; Docket No. 58-0102-1201.

The Region 10 RTOC includes Tribes across EPA Region 10, including Tribes in the State of Idaho and Tribes who have treaty-reserved fishing rights in the State. Clean water is essential to many Tribes, not just as a source of sustenance, but also for cultural, medicinal, and spiritual reasons.

The cultural, health, and economic benefits of the Idaho's aquatic resources cannot be overstated. Countless waterbodies across the state provide healthy sources of food for individuals and families from all walks of life. Yet toxic pollution presents a threat to the healthy use of these resources and led many individuals to curtail their consumption of fish. Despite this fact, the proposed water quality standards, which are intended to protect public health and aquatic resources, fail to achieve these objectives.

The proposed standards are fundamentally flawed in two significant ways. First, the proposed water quality standards were calculated using substantially reduced levels of protection for tribal people as compared to the general population. The RTOC believes the utilization of the mean consumption figure for tribal populations fails to protect the health of a great number of Idaho residents and those who fish in Idaho. Moreover, the decision to protect the average person, as opposed to most of the vulnerable

population, is a significant environmental justice matter – one that makes this proposal significantly flawed and beyond the possibility of EPA approval.

According to EPA, environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. This proposal is anything by “fair treatment” because a disproportionate burden of the impact of toxic pollution will fall upon tribal communities.

Second, the proposal is fundamentally flawed because it excludes market fish and anadromous fish, except for steelhead, from its analysis of general and tribal fish consumption. Excluding anadromous fish, such as salmon, from the consumption rate significantly decreases the protection afforded to human health by the standard. This also ignores the subsistence use of salmon and other anadromous fish that is a legally-protected right of many Tribes both in Idaho and outside of the State, who have treaty rights to fish within state boundaries.

Given these concerns, the RTOC would urge IDEQ to “go back the drawing board” and look to the process utilized in the State of Oregon, which adopted a rate of 175 grams per day of fish consumption. We believe that the Oregon rate is appropriately protective of subsistence use of fish in our Region and should be considered in any effort to review Idaho’s consumption rate. In short, we believe that IDEQ should adopt a rate that is protective of human health.

If IDEQ is unable to fully consider the impacts of toxics on tribal health, we would urge IDEQ to allow EPA to step in and to promulgate standards that are protective of the health of all fish consumers in the State.

The RTOC appreciates your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "William (Billy) J. Maines". The signature is written in a cursive style with a stylized initial "W".

William (Billy) J. Maines
Region 10 RTOC, Tribal Caucus Co-chair
